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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,565	10/02/2000	Robert G. Arsenault	PD-200019	4411
20991	7590	11/03/2004	EXAMINER	
THE DIRECTV GROUP INC			BELIVEAU, SCOTT E	
PATENT DOCKET ADMINISTRATION RE/R11/A109				
P O BOX 956			ART UNIT	
EL SEGUNDO, CA 90245-0956			2614	
			PAPER NUMBER	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action	Application No. 09/677,565	Applicant(s) ARSENAULT ET AL.	
	Examiner Scott Beliveau	Art Unit 2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 3, 10, and 14.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

ADVISORY ACTION

Information Disclosure Statement

1. The information disclosure statement filed 08 October 2004 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

Response to Arguments

2. The request for reconsideration has been entered and considered but does not place the application in condition for allowance because all of the rejections of record have not been overcome.
3. Applicant's arguments filed 28 September 2004 with respect to the rejection of claims 1, 4-6, 8, 11, 12, and 15-17 under 35 U.S.C. 102(e) as being anticipated by Eyer et al. (US Pat No. 6,401,242) have been fully considered but they are not persuasive.

In consideration of the rejection of claims 1, 8, and 12, applicant's remarks that the passage cited by the examiner in support of the rejection fails to disclose the limitation of "receiving first program guide information . . . ", the examiner concurs with the applicant's interpretation that the noted passage (Col 9, Lines 53-65) does not show the claimed limitation. However, it is noted that the particular passage cited (by the applicant was utilized in the rejection with respect to a showing that the system is operable to "generate a first program guide from the first program guide information" and to present the first program guide" on the basis of a "comparison between the determined receiving station

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configuration and the default transmitting network identifier” as opposed to the “receiving first program guide information” limitation.

With respect to applicant’s assertion that the current invention fails to disclose the usage of filtering based upon a “default transmitting network identifier that is received with the program guide information”, the examiner respectfully disagrees. As concurred by the applicant, the Eyer et al. reference utilizes a filtering process in order to determine what program guide data is to be utilized in constructing an electronic program guide. The filtering process requires for filtering criteria to be established and for data associated with various criteria to be received for subsequent filtering. In performing this operation, the system first “determines” what program guide data that the receiver should be configured to receive based upon the geographical location of the receiver and/or authorized channels. The system “receives” program guide information including a “default transmitting network identifier value” that “uniquely identifies the service network transmitting the first program guide information” (ex. global programming) (Col 7, Lines 57-65). The program guide is subsequently generated using the filtering process “according to a comparison between the determined receiving station configuration” (-- What programming (global/local) am I configured to receive?) and “the default transmitting network identifier” which identifies the particular network associated with the data being received (ex. global/local).

In consideration of the rejection of claims 2, 9, and 13, the examiner concurs that the passage noted by the applicant has nothing to do with a “receiver station configuration”. However, the applicant’s arguments appear to be mistakenly premised upon a citation from the Eyer et al. reference that was not utilized in the presented grounds of rejection; rather, the

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Bennington et al. reference was utilized for Col 16, Line 66 – Col 17, Line 14. Accordingly, the arguments pertaining to the “IPGT translator” are considered as moot. As to the arguments directed at towards providing a particular motivation, the examiner respectfully disagrees with the position that receiver terminals are not “configured” or permitted to receive premium services.

In consideration of claims 4, 11, and 15, the applicant appears to argue that a receiver is not “configured” simply on the basis of filtering criteria such as “cable system identifier” or “region assignment”. The examiner respectfully disagrees. As aforementioned, the specification does not set forth a special meaning to the term “configuration”. As defined in *The American Heritage® Dictionary of the English Language, Fourth Edition*, a configuration is defined as “the way in which a computer system is set up: changed the configuration by resetting the parameters”. Taken in light of its common usage, the “configuration” is not necessarily associated with the particular physical embodiment of the receiver (ex. two converters). Rather, it is the examiner’s position that the term may be interpreted as being any type of information or parameters that determine what program guide information is to be processed. Accordingly, the particular usage of a “cable system identifier” or “region assignment” is construed as information that particularly determines the configuration of the receiver so as to utilize particular program guide information.

4. Applicant’s arguments with respect to claims 3, 10, and 14 have been fully considered and are persuasive. The rejection of claims of 3, 10, and 14 has been withdrawn.

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5. Applicant's arguments with respect to the rejection of claims 1, 8, and 12 under 35

U.S.C. 102(e) as being anticipated by Arsenault et al. (US Pat No. 6,658,661) have been fully considered but they are not persuasive.

With respect to applicant's remarks that the Arsenault et al. reference fails to "determine a receiver station configuration", the examiner respectfully disagrees. Applicant's argument that the system does not determine its configuration since it is pre-configured to receive information associated with a particular network group presumes that the receivers are shipped in a manner such that that they can only be configured to receive information from a particular source. Firstly, it is the examiner's understanding that IRD receivers associated with the DirectTV® service are not hard coded in such a manner and further request for a user to specify information such as a zip code in order to properly configure what satellite network group to utilize. Secondly, the cited passage further states that the system is operable to utilize user preferences. It is unclear as to how the system would utilize user preferences in conjunction with the receiver without "determining a receiver station configuration"

With respect to applicant's remarks that the "network number" in Arsenault appears to refer to the network transmitting the programs, not the program guide information, considering the Arsenault reference as a whole, it is the examiner's understanding that the network that is transmitting the programs is also the same network that is transmitting the program guide data. In particular, it is the examiner's interpretation of the reference that each object packet associated with the program guide comprises both a network identifier such as "DirectTV® 101 degree services" and a number identifying the network (ex. ESPN)

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for which the program guide data is describing. As such, the system determines what network it is configured to receive program guide data and subsequently presents a program guide on the basis of a comparison or filtering process between the receiver configuration and the particularly received data.

Allowable Subject Matter

6. Claims 3, 10, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The shortened statutory period for reply expires THREE MONTHS from the mailing date of the final rejection or as of the mailing date of this advisory action, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Any extension fee required pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for reply expires as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.


The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB
October 27, 2004


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600